IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928

OP.No. 8040 of 2002(F)

PETITIONER:

V.K.SUSEELAN, VELLAPPALLIL,
KANICHUKULANGARA, CHERTHALA, ALAPPUZHA.

BY ADV. SRI.P.V.JAYACHANDRAN

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS**
   JOINT SECRETARY,LABOUR AND REHABILITATION
   DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE DISTRICT EXECUTIVE OFFICER,**
   KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
   ALAPPUZHA.

BY ADV. SRI.V.V.SURENDRAN
SMT.I.SHEELADEVI, SC,KMTWF BOARD
GOVERNMENT PLEADER SRI.SURARSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 8040 OF 2002 F

Dated this the 2nd day of January, 2007

J U D G M E N T

In this writ petition, the petitioner is challenging Ext.P5 order passed by the 1st respondent and Ext.P3 order passed by the 2nd respondent, which are the appellate order and assessment order respectively under the Kerala Motor Transport Workers' Welfare Fund Act, 1985 assessing contributions payable by the petitioner under the Act. The only contention raised by the petitioner before me is that for the purpose of assessing contributions, the authorities have taken into account fair wages payable under the Kerala Motor Transport Workers Payment of Fair Wages Act, 1971 and not the actual wages paid by the petitioner to his employees. According to the petitioner, the petitioner entered into agreement with the workers for payment of wages which has been duly paid by the petitioner to the employees. Therefore, the contributions have to be assessed on the actual wages paid by the workers who have accepted the same in accordance with the agreement between the petitioner and his workers. The petitioner further contends that the petitioner's industry is a lorry industry which cannot be equated with a stage carriage undertaking for the purpose of payment of fare

wages. According to him, it would not be profitable to run a lorry paying the fair wages as in the case of a stage carriage. On these contentions, the petitioner seeks quashing of Exts.P3 and P4.

2. I have heard the learned counsel for the petitioner as also the counsel for the respondents. Although the petitioner contends that the lorry industry cannot be equated with the stage carriage industry, the petitioner does not dispute the fact that the petitioner's undertaking is a motor transport undertaking as defined under the Kerala Motor Transport Workers Payment of Fair Wages Act, 1971. Once it is admitted that the petitioner's undertaking is a motor transport undertaking, the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971 automatically applies to the petitioner's establishment. That being so, it is the statutory duty of the petitioner to pay to his employees wages at the rate fixed under that Act. When the petitioner is statutorily bound to pay wages under that Act, I do not find anything wrong in the 2nd respondent assessing contributions payable by the petitioner in accordance with the fair wages fixed under the said Act. In such circumstances, I do not find any merit in the challenge against Exts.P3 and P5 orders and accordingly the writ petition is dismissed.

(S. SIRI JAGAN, JUDGE)

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S. SIRI JAGAN , J.

OP No.8040/02 F

J U D G M E N T

2nd January, 2007